

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

DARWYNN L. BARWICK

Plaintiff

-vs-

Case No. C-3-05-214

KIMBERLY HARSHBARGER,

Defendant

District Court Judge Thomas M. Rose

**ENTRY AND ORDER OVERRULING PLAINTIFF'S OBJECTIONS (DOC. #10) TO THE
CHIEF MAGISTRATE JUDGE'S REPORT AND RECOMMENDATIONS (DOC. #9)
RECOMMENDING THE DENIAL OF PLAINTIFF'S MOTION FOR RECONSIDERATION
(DOC. #8) OF THIS COURT'S PREVIOUS ORDER (DOC. #5) DISMISSING THIS CASE,
WITH PREJUDICE. TERMINATION ENTRY.**

This matter comes before the Court pursuant to Objections (Doc. #10), filed by the Plaintiff, to the Report and Recommendations (Doc. #9) of the Chief Magistrate Judge recommending the denial of Plaintiff's Motion for Reconsideration (Doc. #8) of this District Court's Order (Doc. #5) dismissing this case.

On June 20, 2005, the Chief Magistrate Judge recommended (Doc. #4) dismissing this case for want of subject matter jurisdiction for two reasons: (1) it deals with child custody and support issues over which the federal courts do not exercise jurisdiction and (2) it seeks to set aside a judgment previously made by the Montgomery County Common Pleas Court, Juvenile Division, which is outside federal court jurisdiction under the *Rooker-Feldman* doctrine.

Plaintiff complains that he did not receive the Report and Recommendation (Doc. #4) until

June 23, 2005. On July 18, 2005, Plaintiff filed a combined “Motion to Appoint Counsel, to Amend his Title VII Claim and to give notice he had filed a Complaint with the Department of Justice” (Doc. #6). This filing, Plaintiff contends constitutes Objections to the Chief Magistrate’s Report and Recommendations (Doc. #4). The Court issued and filed an Order (Doc. #5) on July 19, 2005, adopting the Report and Recommendations dismissing the case (one day after the filing of Plaintiff’s pleadings (Doc. #6)).

Plaintiff, on July 25, 2005, filed with this Court a Motion for the Reconsideration of the District Court’s decision to dismiss in Case No. 3: 05-CV- 214. The Chief Magistrate Judge, after review of said Motion for Reconsideration (Doc. #8), issued a Report and Recommendations (Doc. #9) recommending said Motion be denied which was followed by Objections (Doc. #10) filed by Plaintiff on August 9, 2005.

As required by 28 U.S.C. Section 636(b) and Federal R. Civ. P. 72(b), this District Judge has made a de novo review of the record in this case and finds Plaintiff’s Objections (Doc. #10) not well-founded and hereby OVERRULED.

This Court ADOPTS in their entirety, the Chief Magistrate Judge’s Report and Recommendations (Doc. #9) DENYING Plaintiff’s Motion for Reconsideration (Doc. #8) and AFFIRMING the Court’s previous order DISMISSING this case with PREJUDICE.

This case matter is terminated upon the docket records of the District Court for the Southern District of Ohio, Western Division at Dayton.

IT IS SO ORDERED.

September 7, 2005

s/**THOMAS M. ROSE**

JUDGE THOMAS M. ROSE
United States District Court

